

ESTTA Tracking number: **ESTTA56393**

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91167151
Party	Defendant Independent Marketing Alliance LP Independent Marketing Alliance LP 16000 Memorial Drive, Suite 200 Houston, TX 77079
Correspondence Address	Bartt G. Thompson Pagel, Davis & Hill, P.C. 1415 Louisiana, 22nd Floor Houston, TX 77002
Submission	Answer
Filer's Name	Martyn B. Hill
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Signature	/s/Martyn B. Hill
Date	12/06/2005
Attachments	PLD0ANS2001206.answer.pdf (3 pages)

1. Applicant admits the averments contained in Paragraph 1.
2. Applicant admits that according to the TESS database the mark COBBLESTONE MILL was registered March 19, 1985 under Registration no 1326230, COBBLESTONE MILL was registered August 6, 1996 under Registration no. 1991258, and QUALITY BREAD COBBLESTONE MILL A FAMILY OF BAKERS SINCE 1919 SAN FRANCISCO SOURDOUGH CLASSIC RECIPE was registered May 21, 2002 under Registration no. 2762164. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the other matters asserted on Paragraph 2 and therefore denies same.
3. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the other matter asserted on Paragraph 3 and therefore denies same.
4. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the other matter asserted on Paragraph 4 and therefore denies same.

5. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the other matter asserted on Paragraph 5 and therefore denies same.

6. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the other matter asserted on Paragraph 6 and therefore denies same.

7. Applicant lacks knowledge or information sufficient to form a belief as to the truth of the other matter asserted on Paragraph 7 and therefore denies same.

8. Applicant admits to filing an application to register the mark COBBLESTONE MARKET on the Principal Register and the application was assigned Serial No. 78/432,642 and admits to the intended sale of the goods as defined in Applicant's Intent to use Application. Applicant otherwise denies the remainder of the matters asserted in Paragraph 8.

9. Applicant denies the arguments in Paragraph 9 of the Opposition, except to admit that Applicant's mark COBBLESTONE MARKET have the same first word (i.e. COBBLESTONE) and that the first letter of the second word (i.e. MARKET) is the letter "M".

10. Applicant denies the averments in Paragraph 10 of the Opposition.

11. Applicant denies the averments in Paragraph 11 of the Opposition.

12. Applicant denies the argument in Paragraph 12 of the Opposition.

13. Applicant does not dispute Paragraph 13 of the Opposition.

AFFIRMATIVE DEFENSES

First Affirmative Defense

14. Opposer's Note of Opposition fails to state a claim upon which relief can be granted and should be dismissed under Federal Rules of Civil Procedure 12(b)(6).

Second Affirmative Defense

15. Applicant's Mark, when used correctly with Applicant's goods is not likely to cause confusion with the mark for Opposer's goods.

WHEREFORE, Applicant respectfully requests that the Opposition be denied and that Application Serial No. 78/432642 be allowed to register.

This 6th day of December, 2005.

Respectfully submitted,



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CERTIFICATE OF MAILING

This is to certify that on this the 6th day of December, 2005, the foregoing ANSWER was served on Opposer by depositing a copy thereof in the United States first class mail, postage pre-paid addressed to:

Theodore H. Davis Jr.
Olivia Maria Baratta
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Martyn B. Hill